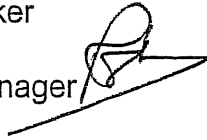


**CITY OF SUNNYVALE
OFFICE OF THE CITY MANAGER**

October 10, 2003

TO: Councilmember Fred Fowler
Councilmember Manuel Valerio
Councilmember Jack Walker

FROM: Robert S. LaSala, City Manager 

SUBJECT: **Communications Regarding Public Safety Operations on the Evening of August 31, 2003 and the Morning of September 1, 2003**

Attached please find a copy of documents generated in response to a request for information from Vice Mayor Risch. These documents are as follows:

- E-mail dated 9/3/03 from Vice Mayor Timothy K. Risch to Robert LaSala, subject: Information Needed Regarding Downtown Public Safety Operations for the Evening of 31 August 2003.
- Attachment to the above referenced e-mail from Vice Mayor Timothy K. Risch to Robert LaSala, subject: Nine Questions Pertaining to Events of August 29, August 30 and August 31.
- Public Safety reports for the nights of Friday August 29, Saturday August 30 and Sunday August 31.
- E-mail dated 9/4/03 from Ernie Bakin to Robert LaSala, subject: Forum Inquiry.
- Document dated 9/4/03 from I. Bakin to Captain Fortin, subject: Incident on Murphy Avenue 9/1/03 at 0030 hours.
- Memorandum dated 9/9/03 from Irwin I. Bakin, Director, Department of Public Safety to City Manager, Robert S. LaSala, subject: Inquiry Re: Events on Murphy Avenue on 9/1/03
- E-mail dated 9/16/03 from Vice Mayor, Timothy K. Risch to Robert LaSala, subject: Additional Question Regarding Public Safety Activities on Murphy Street

cc: Timothy K. Risch, Vice Mayor
Irwin I. Bakin, Director of Public Safety
Valerie Armento, City Attorney

RSL/km

Robert LaSala - Information Needed Regarding Downtown Public Safety Operations for the Evening of 31 August 2003

From: "Timothy K. Risch" <TimRisch@attbi.com>
To: "Robert LaSala" <rlasala@ci.sunnyvale.ca.us>
Date: 9/3/03 3:11 PM
Subject: Information Needed Regarding Downtown Public Safety Operations for the Evening of 31 August 2003

Bob,

Attached is a letter summarizing my concerns regarding Public Safety activity that occurred in the Downtown last Sunday evening. In this letter, I raise a number of questions regarding the manner in which police operations were conducted along Murphy Street. Your support in returning answers to the questions I raise as quickly as possible would be appreciated.

Tim

**Tim Risch
Vice Mayor
City of Sunnyvale**

Robert LaSala
City Manager
City of Sunnyvale

Bob:

I am in receipt of the downtown Public Safety report for the nights of Friday, August 29, Saturday, August 30, and Sunday, August 31 (attached). Based on this report, I have been investigating the incidents reported and have held several discussions with the management of the Forum nightclub. This has led to a number of questions and asserted inaccuracies in the reports for the events that transpired during the evening of Sunday, August 31. In keeping with a commitment to assure high quality public safety services in the community, I would like clarification and further information on the following points:

1. The report indicates multiple 911 calls were received. Exactly how many 911 calls were received? When were these calls received? What was the nature of the calls?
2. The report indicates the 911 calls reported a "melee," however, when "officers arrived most of the combatants fled." How many officers responded to this call? What exactly did officers observe? How many people were detained, cited, or arrested and what were the ages of the subjects? Where did this alleged "melee" occur? How was a connection made between this event and the business being conducted by the Forum nightclub?
3. Why was it necessary to close Murphy Street? According to witnesses that I talked to, the only reason Murphy was "clogged" was due to Public Safety vehicles.
4. According to the report I received from you orally on the morning September 1, 2003 you indicated that officers only requested, as one option, that the Forum close early. However, all levels of the Forum management are consistent with the statement that Public Safety Officers ordered, not requested, the Forum closed 30 minutes early (no option). I request that you reconcile this discrepancy.
5. Why was the Forum the only establishment asked or required to close early on Murphy Street when there were large crowds in other businesses and nightclubs?
6. What was the rationale for letting 400 juveniles out onto the street 30 minutes early when as the report indicates, problems occurred presumably outside on Murphy Street and not in the Forum? Would this not have exacerbated any problems on the street rather than helping to solve them?
7. What was it necessary to deploy 9 squad cars, 2 paddy wagons, and 1 canine unit to control the crowd at the Forum? Why was it necessary for officers to have displayed pepper ball guns to the young crowd of 14 to 17 year olds as they were leaving the Forum? Was this the best use of Public Safety resources in our City given that it was a holiday weekend night and clearly these officers could have been out patrolling the streets during this time?

- ROBERT LEE... Forum of August 2000.doc Page 2
8. Why does the report indicate that this was a "potentially volatile situation?" What factors specifically related to the operation of the Forum nightclub suggest that the situation was "potentially volatile"?
 9. Management of the Forum nightclub received many comments regarding the increased police presence, however most if not all could not be characterized as being "grateful" for the enhanced police activity. Most reported being confused and unclear as to why such a deployment was needed. Also, I understand many of the surrounding bar owners reported that their patrons were afraid to leave their businesses during this time. Exactly what particular information and how many comments from people led to the conclusion that the "Parents, bar patrons, and bar owners were grateful" for the enhanced police presence?

Finally, I request that I be allowed to listen to recordings of the dispatch operations from the time of 11:00 pm on Sunday August 31 to 12:30 am on Monday September 1 to more fully understand this situation.

Regards,

Tim Risch
Vice Mayor, City of Sunnyvale

DPS Downtown Report

August 29, 30 & 31, 2003

Friday, August 29

Downtown had a minimal crowd that caused no problems.

Saturday, August 30

Downtown had a smaller than usual Saturday crowd. Even though The Forum has some show by a HipHop/Reggae (?) singer. No problems.

Sunday, August 31

Large 14-17 year old crowd downtown. Near closing time, dispatch received multiple 911 calls of a melee downtown. When officers arrived most of the combatants fled. Several panicked parents were running around trying to pick up their kids. Murphy St. was clogged in both directions. In an effort to gain control, officers closed Murphy St. and had the Forum close 20 minutes early. All of the juveniles were directed to Washington and Murphy for parent pick-up. This worked well, allowing parents easy an access pick up spot. It allowed officers to control the crowd in one location without having them wander around looking for or causing problems. Parents, bar patrons, and bar owners were grateful. Control was gained quickly and a potential volatile situation was extinguished. This is the last 14-17 year old night until October.

Robert LaSala - Forum Inquiry

From: Ernie Bakin
To: LaSala, Robert
Date: 9/4/03 9:33 AM
Subject: Forum Inquiry
CC: Fortin, Glenn

Bob,

I sent the attached to Capt. Fortin for his response. I will have it to you by 9/11/03

9/04/03

To: Captain Fortin

From: I. Bakin

Subject: Incident on Murphy Ave. 9/1/03 at 0030 hrs.

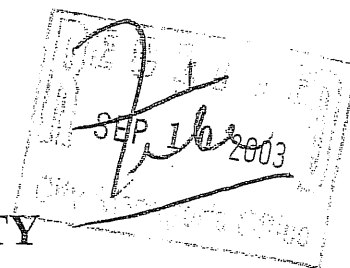
Glen, please provide me with a written report of the above referenced incident by 9/11/03, and arrange for some time for us to meet to discuss the contents by the same date.

1. The report indicates multiple 911 calls were received. Exactly how many 911 calls were received? When were these calls received? What was the nature of the calls?
2. The weekend report indicates that the 911 calls reported a "melee," however, when "officers arrived most of the combatants fled." How many officers responded to this call? What exactly did officers observe? How many people were detained, cited, or arrested and what were the ages of the subjects? Where did this incident occur? How was a connection made between this event and the business being conducted by the Forum nightclub?
3. Why was it necessary to close Murphy Street? Was the traffic congestion due mostly to the number of patrol vehicles on the street?
4. Was the Forum ordered to close, was it a suggestion; how was the request or order given; by whom to whom? How did the Forum management react to the request?
5. Why was the Forum the only establishment asked or required to close early on Murphy Street? Were there large crowds in other businesses and nightclubs?
6. What was the rationale for letting the juveniles out onto the street 30 minutes before the Forum closed? Would this not have exacerbated any problems on the street rather than helping to solve them?
7. Describe the size and nature of the circumstances, and the number of police units deployed. Did officers display pepper ball guns to the crowd? Were there other incidents occurring throughout the city that needed our response – were there calls pending during

this time? If so, how many, and what was the nature of those calls?

8. What factors specifically related to the operation of the Forum nightclub that suggested that the situation was "potentially volatile"?
9. Exactly what particular information and how many comments from people led to our conclusion that the "Parents, bar patrons, and bar owners were grateful" for the enhanced police presence?

CITY OF SUNNYVALE
DEPARTMENT OF PUBLIC SAFETY
Office of the Director



September 9, 2003

TO: Robert S. LaSala, City Manager
FROM: Irwin I. Bakin, Director, Department of Public Safety
SUBJECT: Inquiry re: Events on Murphy Ave. 9/1/03

A large, stylized handwritten signature in dark ink, likely belonging to Irwin I. Bakin.

Attached is the response to our inquiry regarding the events of Sunday evening, 9/1/03 on Murphy Ave.

Attachment

TO: Chief Bakin

FROM: Captain Carlyle

RE: 9-1-03 Incident on Murphy

1) The report indicates multiple 911 calls were received. Exactly how many 911 calls were received?

A total of 4 calls came in, all of which were transfers from CHP because all the callers were using cell phones. When someone calls 911 on their cell phone it automatically gets routed to CHP.

2) When were these calls received?

23:28:07, 23:29:06, 23:29:53, 23:33:11.

3) What was the nature of the calls?

Answer: 10 plus subjects fighting; Blacks and Hispanics; someone yelling something about someone having a knife; subjects are breaking out a car window at Murphy Station; a person may be injured; another person may be injured, he has blood on him but has run off; screaming and yelling heard; juveniles are now jumping up and down on a SUV and breaking out the windows; 2 juveniles were bloody and seen running on Washington.

4) The weekend report indicates that the 911 calls reported a "melee," however, when "officers arrived most of the combatants fled." How many officers responded to this call?

14, which included 3 supervisors, a traffic enforcement unit and a K9 officer. The K9 officer was the closest unit and arrived first, his dog was never deployed from the vehicle.

5) What exactly did the officers observe?

Upon initial arrival there were large groups of juveniles "running around" but officers were looking for a specific location involving the fight and the vehicle vandalism. Because the callers were not providing accurate locations (Murphy Station, which does not exist) the officers were spending time

searching locations such as Murphy Square and the train station, believing one of those locations may be what the callers were trying to describe. The Macys lot was described by one officer as completely full so several officers had to be used to check that lot. During the check of the Macys lot a vandalized vehicle was located but there were no subjects around it.

6) How many people were detained?

No persons were detained. Several persons were contacted, mostly parents who had witnessed the criminal activity and came forth to provide statements to officers.

7) How many people were cited?

None

8) How many were arrested?

None

9) Where did this incident occur?

The Macys parking lot.

10) How was a connection made between this event and the business being conducted by the Forum nightclub?

By the ages of the described suspects and perpetrators. All involved subjects were described as juveniles around the age of 16. The Forum is the only club in the down town area that has events specifically catering to juveniles. All of the other clubs on Murphy Street has a 21 and older policy. There are no other activities in the down town area that would attract a large group of teenagers at that time of night. The juvenile nights at the Forum are well publicized and attract juveniles from all over the bay area including places as far away as Richmond, Vallejo, San Francisco, and even as far away as Sacramento.

11) Why was it necessary to close Murphy Street?

Murphy Street had become grid locked with vehicles arriving to pick up the juveniles who are not old enough to drive or who do not have vehicles. The large amount of vehicles trying to access Murphy Street from both Washington and Evelyn was backing up traffic on both of the those streets as well. The safety of the juveniles leaving the Forum as pedestrians was also a concern in that they tend to walk in and out of traffic while looking for their

rides. The large amount of vehicles and the large amount of pedestrians all on one street created concerns for safety of the pedestrians.

12) Was the traffic congestion due mostly to the number of patrol vehicles on the street?

No, there were only 3 patrol vehicles parked on Murphy.

13) Was the Forum ordered to close?

No

14) Was it a suggestion?

Yes

15) How was the request given?

GL Holloway, who is the Director of Operations at the Forum, contacted Lt. Ahearn in front of the Forum. Mr. Holloway asked Lt. Ahearn if there was anything they could do to help with the situation. Lt. Ahearn told Mr. Holloway that closing the Forum a few minutes early would be a great help. The juveniles could be directed to Washington and Murphy so parents could easily locate their children and have easy access to Sunnyvale Ave, also alleviating the traffic congestion. It was also explained to Mr. Holloway that by closing the Forum a few minutes early the crowd could be controlled a great deal easier than if the juveniles were allowed to trickle out over the next 20 minutes.

16) How did the Forum management react to the request?

Mr. Holloway was very cooperative and said he would be happy to implement the suggestion by Lt. Ahearn, Mr. Holloway immediately got on his radio and told his staff to close. A minute or two later the manager Ali (unknown last name) came out and asked why the Forum was being requested to close early. Lt. Ahearn provided the same explanation to Ali. Lt. Ahearn indicated Ali did not seem pleased and was concerned the juveniles would be forced to leave the establishment before their rides had arrived. Lt. Ahearn explained to Ali that many of the parents, and others, were already here trying to find their children, siblings, friends etc. Ali's concern for the safety of the juveniles would not be an issue because all the juveniles would be escorted to the corner of Murphy and Washington where several officers would be standing by to offer protection. Lt. Ahearn stated Ali simply turned away and left without offering any other concerns.

17) Why was the Forum the only establishment asked to close early on Murphy Street?

Once again, patrons from other clubs were not causing any problems.
See # 10

18) Were there large crowds in other businesses and nightclubs?

No

19) What was the rationale for letting the juveniles out onto the street 30 minutes before the Forum closed?

The club was not shut down 30 minutes early, the time announced by Lt. Ahearn that the club would be closing was 23:38, only 22 minutes prior to close. The rationale was simple. There had already been a report of a gang fight involving 10 subjects, some of which were reported as injured. There had also been several reports of vandalism. One individual involved was described wearing a blue bandana over his face to conceal his identity while committing his crimes. Lt. Ahearn had a concern that violence would continue, public safety would be at risk, especially since one of the original combatants was described as having a knife. He was concerned there may be a gang element present and innocent juveniles may be at risk. He also had a concern that public order be maintained and there were not be a repeat of the down town riot from several years ago. Lt. Ahearn has worked the night shift the majority of his career and has been at the scene of several down town disturbances which became out of hand and actually required the assistance of outside agencies to control the peace. Lt. Ahearn felt the large crowd and the violence that had already occurred this night could lead to the kind of problems we have seen occur before. He decided it would be helpful if the Forum would close a few minutes early so that the crowd could be properly managed and safety insured. His focus was on the safe and orderly dispersal of the crowd.

20) Would this not have exacerbated any problems on the street rather than helping to solve them?

No. By the orderly control of the crowd this prevented further illegal actions on the street. Officers were able to control the orderly dispersal of the crowd and not allow further criminal activity to occur. The actions of the officers and decisions made by Lt. Ahearn not only did not exacerbate any problems, it eliminated any further problems. Once Lt. Ahearn's action plan was in place,

there were no further reported crimes or incidents. All of the juveniles were delivered to their rides and the order in the down town area was restored.

21) The number of police units deployed?

14

22) Did the officers' display pepper ball guns to the crowd?

Pepper ball guns were slung over the officer's shoulder and onto his/ her back. Pepper ball guns are designed specifically for crowd control purposes, they are an effective tool that produces no injury and only minor irritation when used. The purpose of the pepper ball system is to prevent the necessary use of batons or other impact weapons during large fights or disturbances that do cause injury and damage. The deployment of the pepper ball systems is a S.O.P. at these type of events and within Department policy. No pepper balls were deployed during this incident and the pepper ball systems were not brandished at any citizens.

23) Were there other incidents occurring throughout the City that needed our response?

The protection of life and property is our highest priority. This incident involved both a threat to life (subject with a knife) and the destruction of property. There was nothing else occurring within the city during this call that would be of a higher priority. The Program Outcome Statement for Program 412 states the following;

- The protection of lives, property, and the rights of all people.
- The deterrence and prevention of crime.
- The apprehension and prosecution of offenders.
- The maintenance of order and the resolution of conflict.
- The prompt response to incidents requiring immediate police attention.
- The development and maintenance of a safe and orderly flow of traffic in a fair, prompt, sensitive and courteous manner, to the satisfaction of citizens.

Lt. Ahearn used these outcome measures in making his decisions. His intent was to protect lives, protect property, deter further criminal acts, apprehend offenders if possible, restore and maintain order, provide a prompt response, and to develop a safe and orderly flow of traffic. The apprehension of those responsible for the vandalism is the only one not accomplished. The investigation into those acts is on going and could involve future arrest and prosecution however. Lt. Ahearn was able to accomplish all other goals.

24) Were there other calls pending during this time?

A 415-noise call came in at 23:19:41 and had not been dispatched prior to this incident. Another 415-noise call came in at 23:27:41. The first call was dispatched to officers at 23:56:22 and cleared at 23:59:21. The second was dispatched at 23:59:39 and cleared at 00:06:30.

25) What factors specifically related to the operation of the Forum nightclub that suggested that the situation was "potentially volatile?"

All described above.

26) Exactly what particular information and how many comments from people led to the conclusion that the "parents, bar patrons, and bar owners were grateful" for the enhanced police presence?"

An exact number of comments would be difficult to get without interviewing 14 individual officers and supervisors. Of the several officers that I did speak with the comments made to them by parents picking up their children was very positive and expressed gratitude for the officers being present. One officer received one negative comment from one of the original calling persons who said she felt the police should be stationed down town at all these events to keep the peace and keep fights and vandalism from occurring. A supervisor told me the bartender from Paul and Harvey's was grateful that we responded and quickly defused the situation. He said kids running up and down the street, being loud and using profanities had bothered his clients. The bouncer from the French Quarter also made a comment that he was very pleased that the police acted quickly to restore order and keep other acts of violence and vandalism from occurring.

9/9/03
NOTED! Forwarded to City Manager
ABL

Robert LaSala - Additional Question Regarding Public Safety Activities on Murphy Street

From: "Timothy K. Risch" <TimRisch@attbi.com>
To: "Robert LaSala" <rlasala@ci.sunnyvale.ca.us>
Date: 9/16/03 4:17 PM
Subject: Additional Question Regarding Public Safety Activities on Murphy Street

Bob,

I have one additional question. What level of PS management (Lieutenant, Captain, Chief) approved deploying virtually the entire police force (14 vehicles) to the incident of Murphy Street?

Thanks,

Tim